

## **CHILD VISITATION ISSUES**

### **LAW LIBRARY**

SUPERIOR COURT OF ARIZONA, MARICOPA COUNTY

May 2004

## CONTENTS

GENERAL .....	3
ADOPTION .....	3
ALIENATION .....	3
CHILD PREFERENCES .....	4
GRANDPARENTS .....	4
NONTRADITIONAL FAMILIES .....	6
OVERNIGHT CONTACT .....	6
PARENTAL RELOCATION .....	7
RELIGION .....	7
RESEARCH .....	7
SCHEDULES AND PARENTING TIME PLANS .....	7
SIBLINGS .....	8
SUPERVISED VISITATION, DRUG ABUSE AND VIOLENCE .....	8
UNMARRIED PARENTS .....	9
VIRTUAL VISITATION .....	10
OTHER SPECIAL ISSUES .....	10

**GENERAL**

- Benedek, Elissa P. *et al. Legal and Mental Health Perspectives on Child Custody Law: A Deskbook for Judges*. St. Paul, MN: West Group, 1998.
- Boland, Mary L. *Your Right to Child Custody, Visitation, and Support*. Naperville, IL: Sphinx Publishing, 2001.
- Haralambie, Ann M. *Handling Child Custody, Abuse and Adoption Cases*. Colorado Springs, CO: Shepard's/McGraw-Hill, 1993-.
- Krause, Harry D. and David D. Meyer. "Child Custody and Visitation," in *Family Law in a Nutshell*, 4th ed., pp. 177-205. St. Paul, MN: West, 2003.
- Little, Sandra Morgan. *Child Custody and Visitation Law and Practice*. New York: Mathew Bender, 1998.
- Rein, Stewart. *Betrayal of the Child: A Father's Guide to the Family Courts, Divorce, Custody and Children's Rights*. Tobyhanna, NY: Lotus Press, 2001.
- Sember, Brette McWhorter. *Visitation Handbook: For the Non-Custodial Parent*. Naperville, IL: Sphinx Pub., 2002.
- Stahl, Philip M. *Complex Issues in Child Custody Evaluations*. Thousand Oaks, CA: Sage Publications, 1999.
- Turkat, Ira Daniel. *Child Visitation Interference in Family Law Litigation: The Handbook for Victims of Custody and Access Disputes*. Marietta, GA: Future 1st Global, 2002.
- Haralambie, Ann M. "Custody and Visitation Interference: Alternate Remedies," in *Sixth Annual For Better or For Worse: Advanced Domestic Relations*, pp. 165-78. Phoenix, AZ: State Bar of Arizona, 1998.

**ADOPTION**

- Connolly, Catherine. "An Analysis of Judicial Opinions in Same-Sex Visitation and Adoption Cases." 14 *Behavioral Sciences and the Law* 187 (1996).
- Cook, Lawrence. "Open Adoption: Can Visitation With Natural Family Members Be in the Child's Best Interest?" 30 *Journal of Family Law* 471 (1992).
- Lewis, Robin L. "Grandparents Retain Visitation Privileges After Adoption." 76 *Marquette Law Review* 651 (1993).
- Mahoney, Margaret M. "Open Adoption in Context: The Wisdom and Enforceability of Visitation Orders for Former Parents Under Uniform Adoption Act § 4-113." 51 *Florida Law Review* 89 (1999).

**ALIENATION**

- Bacher, Nancy Watson, and Barbara Buchwald. "Make Visitation Work: Allow Your Child to

Love Both Parents." 26 *Family Advocate* 17 (Summer 2003).

Gitlin, H. Joseph. "Alienation, Visitation, Frustration v. Custody Transfer." *Chicago Daily Law Bulletin* 5 (April 19, 2002).

Kuehnle, Kathryn and Tracy Ellis. "The Importance of Parent-Child Relationships: What Attorneys Need to Know About the Impact of Separation; Examining the Formation of Parent-Child Relationships and How Attachment Is Impacted by Parental Contact Can Assist the Court in Determining the Parameters of Visitation." [76 Florida Bar Journal 67 \(October 2002\)](#).

Lampel, Anita K. "Assessing for Alienation and Access in Child Custody Cases: A Response to Lee and Olesen." 40 *Family Court Review* 232 (2002).

Stolberg, Arnold. "Denied Visitation: Its Impact on Children's Psychological Adjustment, and a Nationwide Review of State Code." 36 *Journal of Divorce & Remarriage* 1 (2002).

Stoltz, Jo-Anne M. and Tara Ney. "Resistance to Visitation; Rethinking Parental and Child Alienation." 40 *Family Court Review* 220 (2002).

## CHILD PREFERENCES

Felder, Myrna. "'Mark-Weiner v. Mark': When a Child Does Not Want to Visit." 226 *New York Law Journal* 3 (October 11, 2001).

Herman, Kenneth D. "A Child's Resistance/Refusal of Contact With the Noncustodial Parent." 15 *American Journal of Family Law* 137 (2001).

Skutch, Jan. "Children Get Voice in Divorce Battles; Program Will Help Bring 'Third Voice to the Table' in Custody, Visitation Conflicts." *Augusta Chronicle* CO5 (May 26, 2000).

Woodhouse, Barbara Bennett. "Talking About Children's Rights in Judicial Custody and Visitation Decision-Making." 36 *Family Law Quarterly* 105 (2002).

## GRANDPARENTS

"Custody: Grandparent's Visitation/Adoption," in *Domestic Relations Law Update: The Year in Review*, p. 8. Phoenix, AZ: Maricopa Bar Association, 1997.

Bartlett, Katherine T. "Grandparents Visitation: Best Interests Test Is Not in Child's Best Interests." 102 *West Virginia Law Review* 724 (2000).

Blum, George L. "Grandparents' Visitation Rights Where Child's Parents Are Deceased, Or Where Status of Parents Is Unspecified." 69 *American Law Reports 5th* 1 (1999).

Blum, George L. "Grandparents' Visitation Rights Where Child's Parents Are Living." 71 *American Law Reports 5th* 99 (1999).

Bobroff, Rochelle. "The Survival of Grandparent Visitation Statutes." 34 *Clearinghouse Review* 284 (2000).

- Bohl, Joan Catherine. "Grandparent Visitation Law Grows Up: The Trend Toward Awarding Visitation Only When the Child Would Otherwise Suffer Harm." 48 *Drake Law Review* 279 (2000).
- Bohl, Joan Catherine. "The 'Unprecedented Intrusion': A Survey and Analysis of Selected Grandparent Visitation Cases." 49 *Oklahoma Law Review* 29 (1996).
- Buss, Emily. "Adrift in the Middle: Parental Rights After [Troxel v. Granville](#)." 2000 *The Supreme Court Review* 279.
- Gilles, Stephen G. "Parental (and Grandparental) Rights After [Troxel v. Granville](#)." 9 *Supreme Court Economic Review* 69 (2001).
- Goldfarb, Sally F. "Visitation for Nonparents After [Troxel v. Granville](#)...Where Should States Draw the Line?" 32 *Rutgers Law Journal* 783 (2001).
- Henderson, Tammy L. and Patricia B. Moran. "Grandparent Visitation Rights: Testing the Parameters of Parental Rights." 22 *Journal of Family Issues* 619 (2001).
- Herring, David J. "[Troxel](#) and the Rhetoric of Associational Respect." 62 *University of Pittsburgh Law Review* 649 (2001).
- Hill, Twyla J. "Legally Extending the Family: An Event History Analysis of Grandparent Visitation Rights Laws." 21 *Journal of Family Issues* 246 (2000).
- Hsia, Annie and Twyla J. Hill. "About Grandma's Visit...States Roll Back Grandparents' Visitation Rights." 26 *National Law Journal* A1 (October 14, 2002).
- Kaganas, Felicity and Christine Piper. "Grandparents and Contact: 'Rights v. Welfare' Revisited." 15 *International Journal of Law, Policy and the Family* 250 (2001).
- Maltz, Earl M. "The Trouble With [Troxel](#)." 32 *Rutgers Law Journal* 695 (2001).
- Marrus, Ellen. "Over the Hills and Through the Woods to Grandparents' House We Go: Or Do We, Post-[Troxel](#)?" 43 *Arizona Law Review* 751 (2001).
- Meyer, David D. "Constitutional Pragmatism for a Changing American Family." 32 *Rutgers Law Journal* 711 (2001).
- Montoya, Thomas C. "[Troxel v. Granville](#): Is Court Ordered Grandparent Visitation Over?" 14 *American Journal of Family Law* 217 (2000).
- Murray, Stan. "Recent U.S. Supreme Court Case Will Have No Effect on Arizona's Grandparent Visitation Statute." *Family Law News* 6 (January 2002).
- Nolan, Laurence C. "Beyond [Troxel](#): The Pragmatic Challenges of Grandparent Visitation Continue." 50 *Drake Law Review* 267 (2002).
- Quintal, Michael. "Court-Ordered Families: An Overview of Grandparent-Visitation Statutes." 29 *Suffolk University Law Review* 835 (1995).
- Schaffer, David N. "[Troxel](#) and Lulay – Two High Courts Speak on Grandparent Visitation Rights." 89 *Illinois Bar Journal* 74 (2001).

Schowalter, John E. "Grandparent Visitation Rights." 28 *Journal of the American Academy of Psychiatry and the Law* 7 (2000).

Truly, Traci. *Grandparents' Rights*. Naperville, IL: Sphinx Pub., 2001.

Taylor, M. Kristine. *Grandparent Visitation Rights: A Legal Research Guide*. Buffalo, NY: W.S. Hein, c2000.

Widell, Karl H. "Constitutional Law – Due Process and Equal Protection Clauses – Court of Appeals of Arizona Upholds Grandparent Visitation Under Arizona Statute." 43 *Arizona Law Review* 495 (2001).

Wright, Tony. "Grandparent Visitation Laws Mostly Upheld." *Lawyers Weekly USA* 1 (September 30, 2002).

## NONTRADITIONAL FAMILIES

Bilbrey, Shelley L. "Dancing Nancy: The Harmful and Illogical Dance Among Alabama Courts Over Supervised Visitation Between Gay Parents and Their Children." 26 *Law and Psychology Review* 177 (2002).

Blake, Trevor S. "Child Custody and Visitation." 3 *Georgetown Journal of Gender and the Law* 373 (2002).

Burks, Kristine L. "Redefining Parenthood: Child Custody and Visitation When Nontraditional Families Dissolve." 24 *Golden Gate University Law Review* 223 (1994).

"Child Custody and Visitation Rights Arising From Same-Sex Relationship." 80 *American Law Reports 5th* 1 (2000).

Perrotta, Tom. "Same-Sex Partner Denied Visitation." 227 *New York Law Journal* 1 (May 28, 2002).

"Restrictions on Parent's Child Visitation Rights Based on Parent's Sexual Conduct." 99 *American Law Reports 5th* 475 (2002).

Schepard, Andrew. "Revisiting 'Alison D.': Child Visitation Rights for Domestic Partners." 227 *New York Law Journal* 3 (June 27, 2002).

Walter, Betsy J. "Lesbian Mediation Resolving Custody and Visitation Disputes When Couples End Their Relationships." 41 *Family Court Review* 104 (2003).

## OVERNIGHT CONTACT

Biringen, Zeynep *et al.* "Commentary on Warshak's 'Blanket Restrictions: Overnight Contact Between Parents and Young Children'." 40 *Family Court Review* 204 (2002).

Warshak, Richard A. "Who Will Be There When I Cry in the Night? Revisiting Overnights - A Rejoinder to Biringen *et al.*" 40 *Family Court Review* 208 (2002).

## PARENTAL RELOCATION

Kindregan Jr., Charles P. "Family Interests in Competition: Relocation and Visitation." 36 *Suffolk University Law Review* 31 (2002).

"Visitation Denial As Relocation Factor." 15 *American Journal of Family Law* 324 (2001).

## RELIGION

Mangrum, R. Collin. "Religious Constraints During Visitation: Under What Circumstances Are They Constitutional?" 24 *Creighton Law Review* 445 (1991).

"Religion As a Factor in Visitation Cases." 95 *American Law Reports 5th* 533 (2002).

Smith, Kevin S. "Religious Visitation Constraints on the Noncustodial Parent: The Need for National Application of a Uniform Compelling Interest Test." 71 *Indiana Law Journal* 815 (1996).

## RESEARCH

Kelly, Joan B. "Psychological and Legal Intervention for Parents and Children in Custody and Access Disputes: Current Research and Practice." 10 *Virginia Journal of Social Policy & the Law* 129 (2002).

Kelly, Joan B. and Michael E. Lamb. "Using Child Development Research to Make Appropriate Custody and Access Decisions for Young Children," in *Child Custody and Co-Parenting in Arizona*, pp. 297-311. Ruth Lusby and Steven D. Wolfson, eds. Eau Claire, WI: National Business Institute, 2000.

Younger, Judith T. "Post-Divorce Visitation for Infants and Young Children - The Myths and the Psychological Unknowns." 36 *Family Law Quarterly* 195 (2002).

## SCHEDULES AND PARENTING TIME PLANS

Arizona Supreme Court. Administrative Office of the Courts. Courts Services Division. Court Programs Unit. *Things You Should Know About Custody and Parenting Time*. Phoenix, AZ: Arizona Supreme Court, 2003 [accessed 22 March 2004]. Available at <http://www.supreme.state.az.us/dr/PDF/custvis.pdf>.

Arizona Supreme Court. Administrative Office of the Courts. Courts Services Division. Family Law Unit. *Model Parenting Time Plans for Parent/Child Access*. Phoenix, AZ: Arizona Supreme Court, 2001 [accessed 22 March 2004]. Available at [http://www.supreme.state.az.us/dr/Pdf/Parenting\\_Time\\_Plan\\_Final.pdf](http://www.supreme.state.az.us/dr/Pdf/Parenting_Time_Plan_Final.pdf).

Bray, James H. "The Family Schedule: Crafting Custody and Visitation Arrangements That Work." 21 *Family Advocate* 31 (Summer 1998).

Freeman, Marsha A. "Reconnecting the Family: A Need for Sensible Visitation Schedules for Children of Divorce." 22 *Whittier Law Review* 779 (2001).

Gould, Jonathan W. and Philip M. Stahl. "Never Paint by the Numbers." 39 *Family Court Review* 372 (2001).

Matthews, Mark D. "Curing the 'Every Other Weekend Syndrome': Why Visitation Should Be Considered Separate and Apart From Custody." 5 *William & Mary Journal of Women and the Law* 411 (1999).

Mitchell, Fred. "Family Law Section Reviews Model Parenting Time Plans." *Family Law News* 14 (January 2002).

## SIBLINGS

Grezlak, Hank. "Sister Denied Visitation Rights; Siblings Don't Have Standing to Fight for Visitation, the High Court Ruled." 19 *Pennsylvania Law Weekly* 1 (October 14, 1996).

Grob, Seth A. "Sibling Visitation: A Child's Right." 22 *Colorado Lawyer* 283 (1993).

Jones, Barbara. "Do Siblings Possess Constitutional Rights?" 78 *Cornell Law Review* 1187 (1993).

Markel, Christine D. "A Quest for Sibling Visitation: Daniel Weber's Story." 18 *Whittier Law Review* 863 (1997).

Marrus, Ellen. "'Where Have You Been, Fran?' The Right of Siblings to Seek Court Access to Override Parental Denial of Visitation." 66 *Tennessee Law Review* 977 (1999).

Morgan, Laura W. "Sibling Visitation Rights." 9 *Divorce Litigation* 85 (May 1997).

Solle, Susan. "Sibling Relationships Should Not Be Denied by Formalistic Judges: *Scruggs v. Saterfiel*, 693 So. 2d 294." 23 *University of Dayton Law Review* 659 (1998).

Williams, Joel V. "Siblings Rights to Visitation: A Relationship Too Valuable to Be Denied." 27 *University of Toledo Law Review* (1995).

## SUPERVISED VISITATION, DRUG ABUSE AND VIOLENCE

Class, Caitlin, Tamara Kuennen and Sharon Lopez. "Custody and Visitation: Considerations for Every Attorney Retained by a Survivor of Domestic Violence." 36 *Clearinghouse Review* 529 (2003).

Clement, Debra A. "A Compelling Need for Mandated Use of Supervised Visitation Programs." 36 *Family and Conciliation Courts Review* 294 (1998).

Dalton, Clare, Judge Susan Carbon and Nancy Olesen. "High Conflict Divorce, Violence, and Abuse: Implications for Custody and Visitation Decisions." 54 *Juvenile and Family Court Journal* 11 (2003).



- Fineman, Martha Albertson. "Domestic Violence, Custody and Visitation." 36 *Family Law Quarterly* 211 (2002).
- Flory, Barbara E., Jerry Dunn, Marla Berg-Weger and Marguerite Milstead. "An Exploratory Study of Supervised Access and Custody Exchange Services: The Parental Experience." 39 *Family Court Review* 469 (2001).
- Ford, Brian. "Drug Abuse Would Limit Visits, Parental Visitation Would Be Curbed in Child Custody Cases." *Tulsa World* 19 (February 23, 2002).
- Johnston, Janet R. and Robert B. Straus. "Traumatized Children in Supervised Visitation: What Do They Need?" 37 *Family and Conciliation Courts Review* 135 (1999).
- Jones, Leigh. "Panel Affirms Decision Allowing Supervised Visitation of Children." 229 *New York Law Journal* 1 (June 26, 2003).
- Levin, Amy B. "Child Witnesses of Domestic Violence: How Should Judges Apply the Best Interests of the Child Standard in Custody and Visitation Cases Involving Domestic Violence?" 47 *UCLA Law Review* 813 (2000).
- Pearson, Jessica and Nancy Thoennes. "Supervised Visitation: The Families and Their Experiences." 38 *Family and Conciliation Courts Review* 123 (2000).
- Schwaeber, Lois. "Domestic Violence: The Special Challenge in Custody and Visitation Dispute Resolution." 10 *Divorce Litigation* 141 (1998).
- Sheeran, Maureen and Scott Hampton. "Supervised Visitation in Cases of Domestic Violence." 50 *Juvenile & Family Court Journal* 13 (1999).
- Smith, Vicki. "Centers Provide Neutral Ground for Parents: State's Family Visitation Centers Are Safe Places for Visiting or Exchanging Custody." *Charleston Gazette* 1C (December 26, 2000).
- Stern, Nat and Karen Oehme. "The Troubling Admission of Supervised Visitation Records in Custody Proceedings." 75 *Temple Law Review* 271 (2002).
- Straus, Robert B. "Supervised Visitation and Family Violence." 29 *Family Law Quarterly* 229 (1995).
- Strauss, Robert B., *et al.* "Standards and Guidelines for Supervised Visitation Network Practice: Introductory Discussion." 36 *Family & Conciliation Courts Review* 96 (1998).
- Thoennes, Nancy and Jessica Pearson. "Supervised Visitation: A Profile of Providers." 37 *Family and Conciliation Courts Review* 460 (1999).
- Tortorella, Margaret. "When Supervised Visitation Is in the Best Interest of the Child." 30 *Family Law Quarterly* 199 (1996).

## UNMARRIED PARENTS

- Insabella, Glendessa M., Tamra Williams and Marsha Kline Pruett. "Individual and Coparenting Differences Between Divorcing and Unmarried Fathers: Implications for

Family Court Services." 41 *Family Court Review* 290 (2003).

Miller, Robin Cheryl. "Right of Putative Father to Visitation With Child Born Out of Wedlock." 58 *American Law Reports 5th* 669 (1998).

Stanley, Jacqueline D. *Unmarried Parents' Rights*. Naperville, IL: Sphinx Pub., 2003.

## VIRTUAL VISITATION

Ferdinand, Pamela. "Visitation Rights Get High-Tech Hookup, Computers, Cameras Link Parents and Kids." *Washington Post* A10 (July 14, 2002).

Flango, Carol R. *Science and Technology for Judges: Trends in 2003: Virtual Visitation - Is This A New Option for Divorcing Parents?* Williamsburg, VA: National Center for State Courts, 2003 [accessed 15 March 2004]. Available at [http://www.ncsconline.org/WC/Publications/KIS\\_SciJud\\_Trends03.pdf](http://www.ncsconline.org/WC/Publications/KIS_SciJud_Trends03.pdf).

Gertner, Reni. "Divorce Lawyers Use 'Internet Visitation' in Relocation Cases." *Lawyers Weekly USA* 1 (March 5, 2001).

Gottfried, Sarah. "Virtual Visitation: The Wave of the Future in Communication Between Children and Non-Custodial Parents in Relocation Cases." 36 *Family Law Quarterly* 475 (2002).

Hsieh, Sylvia. "Mom Moves, Dad Gets 'Virtual Visitation' With Young Kids." *Lawyers Weekly USA* 1 (July 22, 2002).

Schepard, Andrew. "Virtual Visitation: Computer Technology Meets Child Custody Law." 228 *New York Law Journal* 3 (September 18, 2002).

Shefts, Kimberly R. "Virtual Visitation: The Next Generation of Options for Parent-Child Communication." 36 *Family Law Quarterly* 303 (2002).

## OTHER SPECIAL ISSUES

Caher, John. "No-Smoking Sign Is On; Judge Bans a Mother From Lighting Up During Visitations With Son." 24 *The National Law Journal* A4 (April 1, 2002).

Costa, Rachel D. "Now I Lay Me Down to Sleep: A Look at Overnight Visitation Rights Available to Incarcerated Mothers." 29 *New England Journal on Criminal & Civil Confinement* 67 (2003).

Digges, Diana. "The Long Arm of an Ex: Divorced Parents Call for 'Conduct Codes' to Bar Objectionable Behavior of Ex-Spouse During Visitation." *Lawyers Weekly USA* 20 (November 12, 2001).

Edwards, Leonard P. "Judicial Oversight of Parental Visitation in Family Reunification Cases." 54 *Juvenile & Family Court Journal* 1 (2003).

Lillenthal, Christopher. "Court Refuses Inspections of Custodial Parent's Property: One Parent Cannot Ask Court for 'Routine' Check of the Other's Home: Superior Court."

*Pennsylvania Law Weekly* 1 (May 19, 2003).

Lowy, Dana and Mary Redfield. "Criminal Histories and Parental Custody and Visitation Rights: Family Courts Have Broad Discretion in Balancing the Rights of Parents and Children." 26 *Los Angeles Lawyer* 25 (October 2003).

Starr, Sonja and Lea Brilmayer. "Family Separation As a Violation of International Law." 21 *Berkeley Journal of International Law* 213 (2003).